

## **EXHIBIT 16**



January 4, 2022

**VIA EMAIL**

Craig Coleman  
Faegre Drinker Biddle & Reath LLP  
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Minneapolis, MN 55402  
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**Re: *In re Pork Antitrust Litigation*, 0:18-cv-01776  
Hormel's Responses to MDL DAPs' First RFPs**

Dear Mr. Coleman:

We write on behalf of MDL Direct Action Plaintiffs ("MDL DAPs") to meet and confer regarding Hormel's November 22, 2021 responses to MDL DAPs' First Request for Production of Documents, Request Nos. 8, 9, 10, 14, and 29.<sup>1</sup>

MDL DAPs' RFP No. 8 sought "[a]ll Documents relating to public statements or announcements, press releases, or corporate Communications by You or *by other Pork Integrators* concerning Competitive Conditions." (emphasis added). In response, Hormel referred "the DAPs to its responses and objections to the Class Plaintiffs' Request for Production No. 24, and states that it has already produced nonprivileged, responsive documents in its possession, custody, or control and identified through a reasonable search to the extent those documents were not publicly available through the Company's websites. Hormel Foods further objects to producing documents that are publicly available. No further documents will be produced in response to this Request." However, Class RFP No. 24 merely sought "All Documents relating to public announcements, press releases, or corporate Communications *by You* concerning Competitive Conditions for Pork." (emphasis added). Please confirm whether Hormel has produced all documents relating to public statements or announcements, press releases, or corporate Communications "*by other Pork Integrators* concerning Competitive Conditions." Please also confirm whether Hormel has withheld any documents responsive to RFP No. 8 on the ground that such documents are also publicly available.

MDL DAPs' RFP No. 9 sought "[a]ll Documents relating to Your practice and policies for drafting, approving, and issuing all public Communications regarding Competitive Conditions." In response, Hormel objected to RFP No. 9 as "unduly burdensome, and not proportional to the needs of the case." Further, Hormel objected "to the use of the undefined terms 'drafting,'

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<sup>1</sup> MDL DAPs reserve the right inquire further regarding Hormel's responses to other MDL DAP RFPs.



‘approving,’ and ‘issuing’ as vague and ambiguous” and stated that “it has already produced nonprivileged documents in its possession, custody, or control and identified through a reasonable search regarding public Communications regarding Competitive Conditions. No documents will be produced in response to this Request.” We would like to understand the basis for Hormel’s objections, particularly its claims of burden and proportionality. We also seek to understand Hormel’s position that its existing production of documents “regarding public Communications regarding Competitive Conditions” are sufficiently responsive to RFP No. 9.

MDL DAPs’ RFP No. 10 sought “[a]ll Documents relating to budgets, projections, estimates, or related studies, presentations, business plans, or reports prepared or received by Your current or former directors, officers, or Management regarding” eleven lettered topics, starting with “(a) Pork production, supply, capacity or output.” In response, Hormel referred “the DAPs to its responses and objections to the Class Plaintiffs’ Request for Production No. 9, and states that it has already produced nonprivileged, responsive documents in its possession, custody, or control and identified through a reasonable search. No further documents will be produced in response to this Request.” However, Class RFP No. 9, which lists many of the same topics listed in RFP No. 10, did *not* include “production, supply, capacity, or output” as one of the listed topics. Please confirm whether Hormel has produced in response to Class RFP No. 9 all documents “relating to budgets, projections, estimates, or related studies, presentations, business plans, or reports prepared or received by [Hormel’s] current or former directors, officers, or Management” regarding “Pork production, supply, capacity, or output.”

MDL DAPs’ RFP No. 14 sought “[a]ll Documents concerning *Pork supply or production decisions, reductions*, rationalization, industry leadership, industry discipline, production discipline, supply discipline, capacity discipline, or other so-called disciplined approaches or practices relating to the Pork industry.” (emphasis added). In response, Hormel referred “the DAPs to its responses and objections to the Class Plaintiffs’ Request for Production No. 19, and stated that it has already produced nonprivileged, responsive documents in its possession, custody, or control and identified through a reasonable search. No further documents will be produced in response to this Request.” However, Class RFP No. 19 did not specifically seek documents concerning “Pork supply or production decisions [or] reductions.”<sup>2</sup> Please confirm whether Hormel has produced in response to Class RFP No. 19 all documents related to the “Pork supply or production decisions [or] reductions” by Hormel, any other Defendant, and any other Pork Integrator.

MDL DAPs’ RFP No. 29 sought documents or data from January 1, 2005 through December 31, 2020 “sufficient to show the details of your production, processing, and supply of ‘Pork Products’ by day, month, quarter, and year by facility, including but not limited to”: (a) “[t]he volume—by total number and weight of Hogs—processed”; (b) “[t]he product form/type/grade/cut produced or processed and the volume of each”; and (c) “[t]he processing, production, capacity, and capacity utilization.” Hormel responded that it “has already produced responsive structured data. No further structured data will be produced in response to this Request.”

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<sup>2</sup> Class RFP No. 19 only sought: “All Documents concerning Pork supply rationalization, industry leadership, industry discipline, production discipline, supply discipline, capacity discipline, or other so-called disciplined approaches or practices relating to the Pork industry.”



Our analysis of Hormel's productions indicates that Hormel has produced some Structured Data related to hog acquisition, hog processing, and finished product production. However, there appear to be significant deficiencies in the data Hormel has produced, including gaps in the relevant time period for which Hormel is required to produce Structured Data, deficiencies related to the granularity of the data, and some data that appears to be missing entirely. *See* Schedule A. If you contend Schedule A does not accurately describe Hormel's production of Structured Data responsive to RFP No. 29, please explain why. Please also confirm whether Schedule B attached to this letter reflects Hormel's production of the information requested by MDL DAPs' RFP No. 29. If Hormel contends that other data in its productions is responsive to RFP No. 29, please identify such data by Bates number. If Hormel refuses to produce additional data in its possession, custody or control responsive to MDL DAPs' RFP No. 29, please explain why.

We again request that you provide your availability for a call later this week to discuss these issues further.

Sincerely,

/s/ Michael S. Mitchell

Michael S. Mitchell



**Schedule A - Pork: Summary of Hormel Production Data Produced**

Requested Data By RFP 29	Produced (Y/N)	Description of Data Produced	Frequency	By Plant (Y/N)	Date Range	Deficiencies
(a) Volume & Weight of Hogs Processed	Y	Hog Processing Data	Transactional	Y	Nov 2006 - Oct 2019	<ul style="list-style-type: none"> <li>• Missing data for Jan 2005 – Oct 2006</li> <li>• Missing data for Nov 2019 – Dec 2020</li> </ul>
	Y	Hog Processing Recap Data	Weekly	Y	Nov 2004 – Oct 2018	<ul style="list-style-type: none"> <li>• Only weekly data produced; missing more granular data</li> <li>• Missing data for Nov 2018 – Dec 2020</li> </ul>
	Y	Historical Pork Planned Processing Data	Monthly	Y	Nov 2007 - Oct 2020	<ul style="list-style-type: none"> <li>• Only monthly data produced; missing more granular data</li> <li>• Missing data for Jan 2005 – Oct 2007</li> <li>• Missing data for Nov 2020 – Dec 2020</li> </ul>
	Y	Hog Purchase Data	Transactional	Y	2007/2008 - 2019	<ul style="list-style-type: none"> <li>• Missing data for Jan 2005 – 2006</li> <li>• Missing data for 2020</li> </ul>
(b) Volume of production by product form/type/grade/cut	Y	Finished Product Production & Cost Data	Annual	Y (shipment location)	Nov 2008 - Oct 2020	<ul style="list-style-type: none"> <li>• Only annual data produced; missing more granular data</li> <li>• Missing data for Jan 2005-Oct 2008 and Oct 2020-Dec 2020</li> </ul>
(c) The processing, production, capacity, and capacity utilization	N					No capacity or capacity utilization data were produced.



**Schedule B**

- HFC-PORKAT0000405222
- HFC-PORKAT0000405224-HFC-PORKAT0000405227
- HFC-PORKAT0000405230-HFC-PORKAT0000405233
- HFC-PORKAT0000405237
- HFC-PORKAT0000405240
- HFC-PORKAT0000405242
- HFC-PORKAT0000405245
- HFC-PORKAT0000405238-HFC-PORKAT0000405239
- HFC-PORKAT0000405241
- HFC-PORKAT0000405243-HFC-PORKAT0000405244
- HFC-PORKAT0000405246-HFC-PORKAT0000405250
- HFC-PORKAT0000405254
- HFC-PORKAT0000405236
- HFC-PORKAT0000405229
- HFC-PORKAT0000405177-HFC-PORKAT0000405188
- HFC-PORKAT0000405211
- HFC-PORKAT0000405213-HFC-PORKAT0000405221
- HFC-PORKAT0000405223
- HFC-PORKAT0000405234
- HFC-PORKAT0000405189-HFC-PORKAT0000405192
- HFC-PORKAT0000405194-HFC-PORKAT0000405197
- HFC-PORKAT0000405200
- HFC-PORKAT0000405204
- HFC-PORKAT0000405209
- HFC-PORKAT0000405212
- HFC-PORKAT0000405193
- HFC-PORKAT0000405198-HFC-PORKAT0000405199
- HFC-PORKAT0000405201-HFC-PORKAT0000405203
- HFC-PORKAT0000405205-HFC-PORKAT0000405208
- HFC-PORKAT0000405210
- HFC-PORKAT0000405228
- HFC-PORKAT0000405172
- HFC-PORKAT0000405235
- HFC-PORKAT0000405251-HFC-PORKAT0000405253
- HFC-PORKAT0000405255-HFC-PORKAT0000405263
- HFC-PORKAT0000367718-HFC-PORKAT0000367727
- HFC-PORKAT0000405173